

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDWARD BURLEY,

Plaintiff,

v.

RHONDA RIDER, *et al.*,

Defendants.

Case No. 1:17-cv-88

Hon. Robert J. Jonker

ORDER

At a hearing held on April 25, 2019, the Court addressed various matters including plaintiff's motion for change of venue (ECF No. 53). At that time, the Court agreed to hold this motion in abeyance. However, upon further reflection, the motion will be granted.

Plaintiff filed this action in the United States District Court for the Eastern District of Michigan. That court transferred the action to this district for the convenience of the parties and witnesses, the interests of justice, and because venue of the lawsuit was not proper in the Eastern District because plaintiff failed to allege that any of the acts, events, or omissions which form the basis of the lawsuit took place in that district. *See* Opinion and Order (ECF No. 4). This case has proceeded in this district for about two years. The only claim remaining in this lawsuit is that Nurse Rider was deliberately indifferent to plaintiff's serious medical needs by providing inaccurate medical records with respect to plaintiff's claim for a health-related accommodation. In this regard, Judge Robert J. Jonker included the following footnote in a recent order:

The Court also observes that Plaintiff has a pending lawsuit in the Eastern District of Michigan where he also claims, in part, that prison officials ignored his

hearing impairment. *See Burley v. Michigan Department of Corrections*, Case No. 2:16-cv-10712 (E.D. Mich. filed Feb. 25, 2016). Plaintiff is represented by counsel in that action. All parties might prefer to have the remaining issue in this case transferred to the Eastern District, as a matter of convenience, to the extent there are overlapping factual issues.

Order (ECF No. 28, PageID.183).

In his motion, plaintiff cites this footnote and has asked the Court to transfer the case back to the Eastern District. Title 28 U.S.C. § 1404(a) provides that, “For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.” In response to plaintiff’s motion, defendant Rider stated that “she does not have a preference as to which judicial district tries this case.” Defendant’s Response (ECF No. 68, PageID.299). The Court construes Nurse Rider’s statement as consent to plaintiff’s proposed transfer pursuant to 28 U.S.C. § 1404(a). Accordingly,

IT IS ORDERED that this case be transferred to the United States District Court for the Eastern District of Michigan pursuant to 28 U.S.C. § 1404(a). The Clerk shall transmit the file forthwith to the Clerk of the Court in Detroit.

Dated: April 26, 2019

/s/ Ray Kent
United States Magistrate Judge